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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

BRIAN MANNING,

Plaintiff,

vs.

ALLSTATE INSURANCE COMPANY,
and DOES 1-30, Inclusive,

Defendants.

No. 3:08-cv-00238-EMC

JOINT CASE MANAGEMENT
STATEMENT AND [PROPOSED] ORDER

Date: July 2, 2008
Time: 1:30 p.m.
Place: Courtroom C, 15th Floor
Before: Hon. Edward M. Chen

Pursuant to Federal Rule of Civil Procedure 26(f) and Civil L.R. 16-9(a), the parties to the above-titled action submit this Joint Case Management Statement and Proposed Order with respect to the Case Management Conference set for July 2, 2008, and request that the Court adopt it as the Case Management Order.

1. Jurisdiction and Service:

This Court has exclusive original jurisdiction over the Superior Court Action pursuant to 42 U.S.C. § 4072. This Court also has jurisdiction under 28 U.S.C. §§ 1331, 1332, and 1337. Plaintiff and Allstate Insurance Company (“Allstate”) are citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

There are no issues regarding personal jurisdiction and venue. All parties have been served.

2. Facts:

Allstate issued a National Flood Insurance Program (NFIP) Standard Flood Insurance Policy (SFIP) to Brian Manning for the property commonly identified as 13225 S. Highway 101 in Hopland, County of Mendocino. On December 31, 2005, the property was damaged by or from flood. Plaintiff made a claim under his SFIP for the date of loss at issue. In March 2006, Allstate paid the Plaintiff approximately \$123,154.69. Thereafter, Plaintiff made a claim for further benefits under his SFIP on or about May 9, 2006. On February 1, 2007, Allstate paid \$31,956.02 in additional benefits under the SFIP.

On April 9, 2007, plaintiff submitted another supplemental claim. Allstate requested detailed supporting documentation, but did not receive any, so no further payments were made. Allstate closed its file in October 2007.

Plaintiff alleges he has provided all the additional documentation necessary to receive the additional benefits he claims. Plaintiff sues Allstate for “breach of contract” seeking special, general, and consequential damages, attorneys fees, and costs of suit.

Plaintiff contends Allstate has not paid all benefits due under the policy. Allstate contends it paid plaintiff all benefits due under the policy.

1 **3. Legal Issues:**

2 One or more party contends the following legal issues are in dispute:

3 1. Whether Allstate breached the policy?;

4 2. Whether Plaintiff breached the policy by failing to meet all necessary conditions
5 precedent prior to filing suit?;

6 3. Whether plaintiff can state a valid claim against Allstate.

7 **4. Motions:**

8 Allstate moved to dismiss plaintiff's complaint or in the alternative, strike portions of the
9 complaint on March 17, 2008. By stipulation dated April 2, 2008, plaintiff agreed to dismiss his
10 second cause of action (for "bad faith") with prejudice and to file a First Amended Complaint no
11 later than April 15, 2008 for breach of contract claims only.

12 Following discovery, Allstate intends to move for summary judgment.

13 **5. Amendment of Pleadings:**

14 Plaintiff filed his First Amended Complaint on April 11, 2008.

15 **6. Evidence Preservation:**

16 The parties have taken appropriate steps to ensure the preservation of evidence.

17 **7. Disclosures:**

18 The parties have exchanged initial disclosures.

19 **8. Discovery:**

20 The parties plan to conduct discovery regarding all allegations in the complaint. The
21 parties anticipate propounding written discovery and deposing the parties and other relevant
22 witnesses. The parties do not believe any modification to the Federal Rules is necessary at this
23 time and currently anticipate no dispute requiring the Court's intervention.

24 Plaintiff anticipates deposing the claim adjusters as well as serving requests for
25 admissions and interrogatories.

26 Allstate anticipates deposing plaintiff, any expert(s) named by the plaintiff, contractors
27 who performed any repairs to the property and other third party witnesses who possess
28

knowledge bearing on plaintiff's claim. Allstate also anticipates serving contention interrogatories and requests for admissions on plaintiff.

9. Related Cases:

There are no currently pending related cases.

10. Relief:

Plaintiff's Statement

Plaintiff's amended complaint seeks the unpaid benefits he contends are owed approximately \$75,555.

Defendant's Statement

Allstate seeks judgment in its favor.

11. Settlement and ADR:

The parties have filed a Stipulation and Proposed Order selecting an ADR process: Early Neutral Evaluation.

12. Consent to Magistrate:

The parties filed their stipulation for referral to Magistrate Judge Edward M. Chen on May 15, 2008.

13. Other References:

The parties do not believe any other reference is necessary at this time.

14. Narrowing of Issues:

The parties believe it is premature to narrow the issues through stipulation at this time. However, as discovery progresses, the parties will re-evaluate this issue.

15. Scheduling:

The parties do not believe this case should be handled on an expedited basis. The parties propose the following schedule for discovery, motions and trial:

Exchange of Initial Disclosures:	Completed
FRCP 26(a)(2) expert disclosures:	December 12, 2008
FRCP 26(a)(2) rebuttal disclosures:	January 11, 2009
Non-expert discovery cut-off:	December 24, 2008

Expert Discovery cut-off: January 23, 2009

Dispositive pre-trial motion filing cut-off: February 23, 2009

Dispositive pre-trial motion hearing cut-off: March 13, 2009

Pretrial conference statements: March 24, 2009

Pretrial conference: April 13, 2009

16. Trial:

The parties request a trial date of May 18, 2009.

17. Disclosure of Non-Party Interested Entities or Persons:

The parties are not aware of any interested parties required to be disclosed pursuant to Northern District Local Rule 3-16.

Respectfully submitted,

Dated: June 19, 2008

INSURANCE LITIGATORS & COUNSELORS

By _____/s/_____
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Attorneys for Plaintiff BRIAN MANNING

Dated: June 19, 2008

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By _____/s/_____
WILLIAM TREAS

Attorneys for Defendant
ALLSTATE INSURANCE COMPANY

1 Dated: June 19, 2008

SONNENSCHN NATH & ROSENTHAL LLP

2
3
4 By _____/s/_____
5 SONIA MARTIN

6 Attorneys for Defendant
ALLSTATE INSURANCE COMPANY

7 27300579

[PROPOSED] ORDER

The Case Management Statement and Proposed Order is hereby adopted by the Court as the Case Management Order for the case and the parties are ordered to comply with this Order.

[The Court may wish to make additional orders as follows:

IT IS SO ORDERED.

Date: _____

Edward M. Chen
United States Magistrate Judge